



OFFICE OF COMMUNITY DEVELOPMENT

CITY HALL

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**PLANNING COMMISSION STAFF REPORT**

**Agenda Item No.** \_

**Agenda Date:** October 25, 2016

**SUBJECT:**

An Ordinance of the City Council of the City of Cupertino amending Title 19, Zoning, of the Cupertino Municipal Code including but not limited to Chapter 19.08 (Definitions), Chapter 19.20 (Permitted, Conditional and Excluded Uses in Agricultural and Residential Zones), Chapter 19.24 (Agricultural (A) and Agricultural – Residential (A-1) Zones), Chapter 19.32 (Residential Duplex (R-2) Zones), Chapter 19.52 (Reasonable Accommodation), and Chapter 19.112 (Second Dwelling Units in R-1, RHS, A and A-1 Zones), in response to recently adopted State legislation regarding accessory dwelling units for compliance with State Law, and for internal consistency. (Application No. MCA-2016-05; Applicant: City of Cupertino; Location: City-wide)

**RECOMMENDATION**

Staff recommends that the Planning Commission recommend that the City Council:

1. Find that the proposed actions are exempt from CEQA; and
2. Adopt an ordinance amending Title 19, Zoning, of the Cupertino Municipal Code including but not limited to Chapter 19.08 (Definitions), Chapter 19.20 (Permitted, Conditional and Excluded Uses in Agricultural and Residential Zones), Chapter 19.24 (Agricultural (A) and Agricultural – Residential (A-1) Zones), Chapter 19.32 (Residential Duplex (R-2) Zones), Chapter 19.52 (Reasonable Accommodation), and Chapter 19.112 (Second Dwelling Units in R-1, RHS, A and A-1 Zones), in response to recently adopted State legislation regarding accessory dwelling units for compliance with State Law, and for internal consistency. (Attachment A).

## DISCUSSION

### *Background*

On September 27, 2016, Governor Brown signed Senate Bill 1069, amending Section 65852.2 of the Government Code, reducing requirements that local jurisdictions may impose on accessory dwelling units and streamlining the approval process.

In order to ensure that the Municipal Code conforms to state law, the following chapters have been identified in the Zoning Code for revisions to reflect the amendment in the Government Code:

1. Chapter 19.08 – Definitions: State Law consistency, clarifications
2. Chapter 19.20 - Permitted, Conditional and Excluded Uses in Agricultural and Residential Zones: Consistency
3. Chapter 19.24 - Agricultural (A) and Agricultural – Residential (A-1) Zones: Consistency
4. Chapter 19.32 - Residential Duplex Zones: Consistency
5. Chapter 19.52 - Reasonable Accommodation: Consistency
6. Chapter 19.112 - Second Dwelling Units in R-1, RHS, A and A-1 Zones: State Law consistency, clarifications

In addition to ensure consistency with state law, minor amendments have been proposed to ensure internal consistency and as clarifications.

### *Analysis*

#### *Consistency with State Law:*

1. “Accessory Dwelling Unit”: Senate Bill 1069 amends Section 65852.2 of the Government Code by replacing the term “second unit” with “accessory dwelling unit.” The definition of “second dwelling unit” has been updated to match the state’s definition of an “accessory dwelling unit.” Finally, all occurrences of the term “second unit” in the Municipal Code, when used in the context of an “accessory dwelling unit” have been replaced.
2. Processing: While the City’s current practice of processing of an accessory dwelling unit is a ministerial process through a building permit; SB 1069 requires that the City incorporate language in the ordinance memorializing this.
3. Allowable accessory dwelling unit sizes are being increased from 650 to 800 s.f. for lots up to 10,000 s.f. and from 800 to 1200 s.f. for lots over 10,000 s.f..

#### 4. Parking:

- a. For principal unit: If an existing garage, whether attached or detached, is converted or demolished to be an accessory dwelling unit, state law allows those replacement off-street parking spaces for the principal unit to be provided in any configuration on the lot in any combination of uncovered, covered, carport, tandem or mechanical automobile lifts.
- b. For accessory dwelling unit: If the lot meets certain criteria, such as, being within one-half mile of public transit or in an architecturally significant historic district or part of an existing primary residence or an existing accessory structure, no parking spaces need to be provided for the accessory dwelling unit.

#### *Other Requirements of SB 1069*

Other elements of the Bill, such as eliminating utility hookup fees for accessory dwelling units built within an existing house or an existing detached structure on the same lot, will be addressed by the respective water and sewer agencies. The Building Division is currently in the process of amending the City's Building Code to reflect State Building Code requirements. Fire sprinklers requirements for accessory dwelling units will be incorporated into these revisions when they are presented to the City Council later this year.

#### *Internal Consistency and Clarifications*

Certain definitions in Chapter 19.08, *Definitions*, have been edited to ensure clarity and intent. This includes refining the definition of duplex to differentiate it from the single family and accessory dwelling unit combination. All references for families as an indicator for occupancy in unit types have been removed to comply with case law. Further, the term 'transient' has been added to the definitions of "Lodging "and "Lodging Unit" to ensure internal consistency with the definition of "Transient" in the Municipal Code.

#### *Noticing*

The following noticing has been conducted for this project:

Notice of Public Hearing, Site Notice & Legal Ad	Agenda
<ul style="list-style-type: none"> <li>▪ Legal ad placed in newspaper (at least 10 days prior to hearing)</li> <li>▪ Display ad placed in newspaper (at least 10 days prior to hearing)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Posted on the City's official notice bulletin board (five days prior to hearing)</li> <li>▪ Posted on the City of Cupertino's Web site (five days prior to hearing)</li> </ul>

**ENVIRONMENTAL IMPACT**

The project is categorically exempt as there is no potential for this action to cause a significant effect on the environment and/or any project would be exempt under relevant provisions of CEQA guidelines, including, but not limited to Existing Facilities (Sec. 15301), Replacement or Reconstruction (Sec. 15302), or Construction or Conversion of Small Structures (Sec. 15303).

**NEXT STEPS**

The recommendations made by the Planning Commission will be forwarded to the City Council for consideration.

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Reviewed by:

Approved by:

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**ATTACHMENTS**

1. Draft Resolution of the Planning Commission recommending adoption of the Draft Ordinance
2. Redline document indicating changes in Chapters 19.08, 19.20, 19.24, 19.32, 19.52, and 19.112